

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

STEPHEN CRAIG BURNETT,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CIV-10-470-M
)	
JUSTIN JONES, et al.,)	
)	
Defendants.)	

ORDER

On March 4, 2011, United States Magistrate Judge Bana Roberts issued a Report and Recommendation in this action brought pursuant to 42 U.S.C. § 1983, alleging violations of plaintiff's federal constitutional rights. The Magistrate Judge recommended that defendant Taylor's Motion to Dismiss [docket no. 20] be granted on the basis that plaintiff's claims for declaratory and injunctive relief related to the prison conditions he experienced at CCF during the lock down on April 2010 have been mooted by his transfer in September 2010 to the DCF; that defendant Jones' Motion to Dismiss [docket no. 25] be granted for failure to state a claim upon which relief may be granted. The Magistrate Judge also recommended plaintiff's motion for leave to add DCF Warden Robert Ezell as a defendant [docket no. 46] be denied. In light of these recommendations, the Magistrate Judge further recommended that plaintiff's Motions for Hearing [docket nos. 36 and 38], Motion to Appoint Counsel [docket no. 39] and Motions to Compel [docket nos. 41, 44 and 45] be denied. The parties were advised of their right to object to the Report and Recommendation by March 24, 2011. On March 28, 2011, plaintiff filed his objection.


Having carefully reviewed this matter de novo, the Court finds that plaintiff has not made a clear showing of his entitlement to declaratory and injunctive relief. Accordingly, the Court:

- (1) ADOPTS the Report and Recommendation issued by the Magistrate Judge on March

4, 2011;

- (2) GRANTS defendant Taylor's Motion to Dismiss [docket no. 20] and DISMISSES this action as to defendant Taylor without prejudice to the filing of a new complaint;
- (3) GRANTS defendant Jones' Motion to Dismiss [docket no. 25] and DISMISSES this action as to defendant Jones with prejudice; and
- (4) DENIES plaintiff's Motion for Leave to Add Warden Robert Ezell as a Defendant [docket no. 46], Motions for Hearing [docket nos. 36 and 38], Motion to Appoint Counsel [docket no. 39], and Motions to Compel [docket nos. 41, 44 and 45];

IT IS SO ORDERED this 31st day of March, 2011.


VICKI MILES-LaGRANGE
CHIEF UNITED STATES DISTRICT JUDGE